

No. 2539-4Lab-73/8535.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Universal Refrigeration Industries, Bahadurgarh (Rohtak):—

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 40 of 1972

between

THE WORKMEN AND THE MANAGEMENT OF M/S UNIVERSAL REFRIGERATION
INDUSTRIES, BAHADURGARH (ROHTAK).

Present.—Shri Onkar Parshad, for the workmen.

Shri R.C. Sharma and K. Kumar, for the management.

AWARD

By order No. ID/RK/166-A-72/21568, dated the 16th June, 1972, of the Governor of Haryana, the following disputes between the management of M/s Universal Refrigeration Industries, Bahadurgarh (Rohtak) and its workmen were referred for adjudication to this Tribunal, in exercise of the powers conferred by clause (d) of sub-section(1) of section 10 of the Industrial Disputes Act, 1947 :

(1) Whether the wages of unskilled workers should be increased ? If so, with what details and from which date ?

(2) Whether incremental grades and scales of pay of workers should be fixed ? If so, with what details ?

On receipt of the order of reference usual notices were given to the parties. The workmen reiterated their above demands as earlier raised to the demand notice, dated the 23rd December, 1971, contending that the demands were justified in view of the ever-increasing costs of living. The management contested the demands pleading *inter alia* that the Loh Udyog Karamchhari Sangh had no *locus standi* to represent the workmen concerned and the disputes had not been properly espoused. A settlement with the workmen was also pleaded.

The following 5 issues arose for determination from the pleadings of the parties :—

(1) Whether the Loh Udyog Karamchhari Sangh has *locus standi* to represent the workmen concerned (On workmen),

(2) Whether the dispute has been properly espoused, if not, with what effect ?

(3) Whether the wages of un-skilled workers should be increased ? If so, with what details and from which date ?

(4) Whether incremental grades and scales of pay of the workers should be fixed ? If so, with what details ?

(5) Whether the workmen concerned had entered into a settlement with the management on 22nd July, 1972, as alleged in the written statement ? If so, with what effect ? (On management).

Three of the workmen, namely, Ram Phal, Welder, Hira Mani, Turner, Sant Kumar, Turner had come into the witness box and denied the settlement pleaded by the management. Shri Onkar Parshad, Secretary, Loh Udyog Karamchhari Sangh Bahadurgarh and the authorised representative of the workmen has also made his statement. The documents relied upon by the workmen consist of the demand notice, dated 23rd December, 1971, Exhibit W-1, letters of conciliation, Exhibit W.2, Exhibit W.2, Exhibit W.4, Exhibit W.6 and report of the Conciliation Officer, Exhibit W-5.

On the other hand, the management has examined 4 witnesses including Radhey Sham, Clerk M.W. 1, Krishan Kumar, Manager, M.W. 2, Ishwar Singh, M.W. 3, Daya Nand, M.W. 4, both workmen in this establishment. The documentary evidence brought on record on behalf of the management consist of the memorandum of settlement, dated the 22nd July, 1972, Exhibit M-2, annexure to the said settlement, Exhibit M-3, list of the workers in the establishment Exhibit M-4 and M-5.

The case has been fully argued on both sides and I have very carefully gone through the facts on record.

As already observed the case for the management is that the workmen of this establishment who had in fact entered into a settlement with the management on 22nd July, 1972 had no dispute nor had the present dispute

been properly espoused by them and that the Loh Udyog Karamchhari Sangh had no *locus standi* to represent them. The demand notice leading to the present reference which forms part of the order of reference was given by the said Sangh and the burden was on it to establish that it had representative capacity so far as the workmen in the establishment were concerned. But no satisfactory evidence has been led to discharge this burden in spite of the objection raised by the management in the written statement. No record has been produced to show that a substantial number of the workmen in the establishment were members of the said Sangh and they had authorised it to raise the dispute by passing any resolution in their meeting or otherwise. No worker in the establishment has come forward to state as to how many of them are the members of the Sangh. In the absence of sufficient and convincing evidence on the point it cannot be held that the Loh Udyog Karamchhari Sangh had any *locus standi* to raise the dispute leading to the present reference and that the dispute had been properly espoused by the workmen of the establishment.

That disposes of issues Nos. 1 and 2 which for the reason aforesaid are decided against the workmen and in favour of the management.

In view of my above findings on issue Nos. 1 and 2 it is not necessary to go into the merits of the case as the dispute having not been properly espoused and raised the same could not validly be referred for adjudication. It would, however, be worthwhile to discuss here the plea of settlement of the dispute raised by the management covered by issue No. 5 lends further strength to the contention of the management that no dispute in fact existed between the parties. Reference may be made to the memorandum of settlement, dated the 22nd July, 1972, Exhibit M-2 and the annexure thereto Exhibit M-3, a pursual of which would show that out of 17 workmen in this establishment as many as 13 had entered into settlement with the management with regard to their demands covered by the present reference. This was no doubt a settlement under section 18(1) and not under section 12(3) of the Industrial Disputes Act, 1947, but since the majority of the workmen had accepted the grades and scales of pay fixed under the settlement the workmen in the establishment were bound by the same. Sarvshri Ram Phal, Hira Mani and Sant Kumar, W.W. 2 to W.W. 4, who had denied this settlement had not raised any protest in writing against the settlement, W.W. 3, Ram Phal did not even work in the factory in July, 1972, when the settlement was made and the other two workmen had accepted the benefits arising out of the settlement. They cannot be heard to say that there was no settlement of the dispute with the management. Issue No. 5 is accordingly decided in favour of the management and against the workmen and it is held that the workmen had entered into a settlement with the management on 22nd July, 1972, as per the terms and conditions given in the memorandum of settlement, Exhibit M-2, read with the Annexure Exhibit M-3.

From the above discussions it would follow that the Loh Udyog Karamchhari Sangh which had given the demand notice leading to the present reference had no *locus standi* to do so on behalf of the workmen of the establishment and the dispute with regard to the demands covered by the present reference, if any, had been settled by them with the management. A no dispute award is, therefore, given. No order as to costs.

O.P. SHARMA,

Dated the 28th February, 1973.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 202, dated the 28th February, 1973.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O.P. SHARMA,

Dated the 28th February, 1973.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 2534-4-Lab-73/8537.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Ravi Frost, Panjabi Mohalla, Ambala Cantt:—

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 41 of 1972

between

THE WORKMEN AND THE MANAGEMENT OF M/S RAVI FROST, PANJABI
MOHALLA, AMBALA CANTT.

Present.—Nemo for the workmen.

Shri Roshan Lal Gupta and Shri B.P. Bansal, for the management.

AWARD

By order No. ID/Amb./240-A-72/21532, dated the 16th June, 1972, of the Governor of Haryana, the following dispute between the management of M/s Ravi Frost, Panjabi Mohalla, Ambala Cantt. and its workmen were referred for adjudication to this Tribunal, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :

Whether the workmen are entitled to the grant of bonus for the years 1967-68, 1968-69 and 1969-70 ?
If so, with what details ?

On receipt of the order of reference usual notices were given to the parties and they put in their respective written statements. The management has contested the above demands of the workmen on the ground that it is still in a state of infancy and has not earned profits and, therefore, it is exempted from the Payment of Bonus for the years under reference.

The workmen concerned have not come forward to pursue their claim nor their authorised representative. Shri Davinder Kumar Sayal, Proprietor, has appeared on behalf of the management and made a statement on oath that the first sale of the products of this establishment took place in the beginning of 1968 and that it has not earned any profits so far. His statement finds support in the documentary evidence consisting of the balance sheets and profits and loss account statements for the years 1967-68, 1968-69, 1969-70, Exhibit M-1, M-2, M-3 and the consolidated statement Exhibit, M-4, which shows that the total loss carried over was Rs. 10,358.13.

In view of the above, I do not find that the claim of the workmen is well founded. The establishment being still in its infancy and no profits having been earned ever since it started the first sale of its products in the beginning of 1968, it is clearly exempted from the payment of bonus, under section 16 of the Payment of Bonus Act. This issue involved is, therefore, decided against the workmen and they are held not entitled to any bonus for the relevant years. The award is accordingly made. There shall be no order as to costs.

O. P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated the 21st February, 1973.

No. 201, dated the 23rd February, 1973.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated the 21st February, 1973.

No. 2537-4Lab.-73/8539.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act, No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Jawala Textile Mills, Gurgaon :—

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA
FARIDABAD

Reference No. 9 of 1971

between

THE WORKMEN AND THE MANAGEMENT OF M/S JAWALA TEXTILE MILLS, GURGAON

Present :—

Shri Sardha Nand, for the workmen.

Shri C.M. Lal and Shri G.D. Verma, for the management.

AWARD

The following disputes between the management of M/s Jawala Textile Mills, Gurgaon and its workmen were referred for adjudication to this Tribunal,—*vide* order No. ID/GG/3R-70/8167, dated 19th February, 1971, of the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

1. Whether the workers should be paid bonus for the year 1968-69 ? If so, with what details ?
2. Whether the management be required to keep a qualified doctor in the factory ? if so, with what details ?
3. Whether the workers should be granted increase in wages due to rise in the cost of living index ? If so, with what details ?
4. Whether gratuity scheme should be introduced in the factory ? If so, with what details ?
5. Whether the contract system should be abolished in the factory ? If so, with what details ?

On receipt of the order of reference usual notices were given to the parties and they put in their respective written statements. The workmen reiterated the above demands as earlier raised through the demand notice, dated 29th June, 1970. The management contested their demands on merits and raised some preliminary objections giving rise to the following issues :—

1. Whether the present dispute is not an industrial dispute as the demands in question had not been raised first on the management before taking up the matter for conciliation ?
2. Whether the demand for bonus for the year 1968-69 had earlier been withdrawn ? If so, with what effect (On management) ?
3. Whether the demand covered by term Nos. 3 and 4 of the present reference are barred under the settlement, dated 11th September, 1969 ?
4. Whether the demand covered by item No. 3 of the reference has not been claimed a such in the demand notice, dated 29th June, 1970 ? If so, with what details ?
5. Whether the dispute covered by item No. 5 of the reference cannot be raised on account of the existing award, dated 10th November, 1969 of the Industrial Tribunal, Haryana ?
6. Whether the workers should be paid bonus for the year 1968-69 ? If so, with what details ?
7. Whether the management be required to keep a qualified doctor in the factory ? If so, with what details ?
8. Whether the workers should be granted increase in wages due to rise in the cost of living index ? If so, with what details ?
9. Whether gratuity scheme should be introduced in the factory ? If so, with what details ?
10. Whether the contract system should be abolished in the factory ? If so, with what details ?

The following additional issue was subsequently framed :—

11. Whether the establishment is exempted from the payment of bonus for the year 1968-69 for reasons given in para No. 1 of the preliminary objection in the written statement ?

The parties have led oral as well as documentary evidence. The management has examined 4 witnesses, M.W.1 Shri K.R. Bhardwaj, Manager, M.W. 2 Shri G.D. Verma, Personnel Officer, M.W. 3 Shri Dherminder Nath, Labour-eum-Conciliation Officer, Gurgaon, and M.W. 4 Shri Bhagat Ram, Accountant. The documentary evidence brought on record by the management consist of the strike notice, dated 23rd August, 1969, Exhibit M-1, copy of the award, dated 27th October, 1969, Exhibit M-2, complaint of the workers, dated 29th September, 1969, Exhibit M-3, notice of hunger-strike, dated 29th August, 1969, Exhibit M-4, Application, dated 18th September, 1969, made to the S.D.M., Gurgaon, regarding settlement between the parties, Exhibit M-5, copy of the settlement, dated 11th September, 1969 Exhibit M.W. 1/1, copy of the demand notice, dated 29th June, 1970, Exhibit M.W. 2/1, demand notice, dated 17th December, 1969, Exhibit M.W. 2/2, letter of the Government, dated 15th July, 1970, rejecting the demand, Exhibit M.W. 2/3, balance sheet and profit and loss account statement for the relevant period. Exhibit M.W. 2/4, Exhibit M.W. 2/5, Exhibit M.W. 2/6, Exhibit M.W. 2/7, Exhibit M.W. 2/8, copy of the letter, dated 1st March, 1971, of the Assistant Director, Health Services, Exhibit

M.W. 2/9, intimation of settlement signed by the Labour-cum-Conciliation Officer, Gurgaon to the Labour Commissioner, Haryana, Chandigarh Exhibit M.W. 3/1, Gate pass for removal of excisable goods from the factory in the prescribed form Exhibit M.W. 4/1, letter of the Excise Department regarding issue of L.4. License Exhibit M.W. 4/2, copy of the Form B-15 (General Section) M Exhibit M.W. 4/3, copy of the letter, dated 14th November, 1972 by the Excise Department granting Licence to manufacture Cotton Yarn Exhibit M.W. 4/4, copy of the settlement under section 12 (3) of the Industrial Disputes Act, 1947, Exhibit M.W. 4/5.

The workmen have examined 4 witnesses including W.W. 1 Shri Dera Singh, W.W. 2 Shri Sardha Nand, General Secretary, W.W.3 Ramji Sharma, President, Textile Mills Mazdoor Union, Gurgaon and W.W.4 Shri Hatu Lal and they have produced some documents letter, dated 3rd August, 1971 from the Conciliation Officer, Exhibit W.-1, Notices issued by the management Exhibit W.W. 2/1, W.W.2/2, W.W.2/3, demand notice, dated 29th August, 1970 W.W. 2/4, authority letter W.W. 3/1, E.S.I. slip Exhibit W.W. 4/1.

The case has been fully argued on both sides and I have given a careful consideration to the facts on record. The demands covered by item Nos. 3, 4 and 5 of the order of reference stand already settled according to the settlement arrived at between the parties on 11th September, 1969 in the conciliation proceedings before the Labour-cum-Conciliation Officer, Gurgaon as contemplated under section 12 (3) of the Industrial Disputes Act, 1947,—vide copy of the settlement Exhibit M.W. 4/5 on record and the parties are agreed on this point. These demands have therefore not been pressed before me in view of the aforesaid settlement. Issues Nos. 3, 4, 5, 8, 9, 10 have consequently become redundant. The management is otherwise bound to introduce the gratuity scheme in the establishment as per the provisions of the Payment of Gratuity Act of 1972 and so far as the question of the abolition of the contract system is concerned the workmen have to seek their remedy in accordance with the provisions of Contract Labour (Regulation and Abolition) Act of 1970.

In view of the above, the present dispute is confined only to items Nos. 1 and 2 of the order of reference regarding bonus for the year 1968-69 and posting of a qualified Doctor in the mills. A preliminary objection has been raised on behalf of the management that these demands were not first raised on the management and rejected by it so as to constitute an industrial dispute according to the rule of law laid down by the Hon'ble Supreme Court in the Sindhu Re-settlement Corporation case. I am afraid, the contention has no force. The workers have led considerable evidence, oral as well as documentary, to show that the demands had been raised by them on the management before taking up the matter for conciliation but without success. The demand notice of the management had been given by Shri Sardha Nand, General Secretary of the Union and it will not be out of place to mention here that the settlement with regard to the other demands referred to above has been arrived at with Shri Sardha Nand. I, therefore, do not find any substance in this objection raised on behalf of the management and issue No. 1 is accordingly decided against the management.

So far as the demand for bonus for the year 1968-69 is concerned the management has taken the plea that it is exempted from the payment of bonus for the said year under section 16 of the payment of Bonus Act since it had started selling the goods manufactured by it in the year 1965-66 and was yet in the state of infancy having further incurred losses throughout. The contention is forceful and has been fully sustained by oral as well documentary evidence. To begin with this plea of the management specifically raised in the written statement was not denied in the rejoinder filed on behalf of the workmen and the fact that the establishment had started selling its goods in the financial year 1965-66 was in a way admitted then the management has brought on record documents consisting of the correspondence with the Central Excise Department regarding production and sale of the goods which are excisable articles. The management has also led satisfactory evidence to show that it has been incurring losses from the very beginning as would be clear from the pursual of the balance-sheet and profit and loss account statement Exhibit M.W. 2/4 to Exhibit M.W. 2/8. The workmen have led no reasonable evidence in rebuttal. That disposes of the additional issue No. 11 and issue No. 6 which are decided against the workmen. Issue No. 2 has not been pressed on behalf of the management.

As for the question of posting a doctor in the mill premises, there is not much of disputes left between the parties. As would be clear from the pursual of Exhibit M.W. 2/9 a document brought on record by the management, the Assistant Director, Health Services (Social Insurance, Haryana) has ordered the doctor incharge, E.S.I. Dispensary, Textile Mills, Gurgaon to stay in the premises of the mills, so as to be available for emergency at all hours, where he has also been provided residential accommodation by the management. The necessary expenditure in this behalf has to be met by the management. This arrangement substantially meets the demand of the workmen. Issue No. 7 is accordingly decided in their favour.

That finishes the entire case. In view of my above findings on the issues involved, the workmen are not entitled to bonus for the year 1968-69 and so far as their demand for increase in wages covered by item No. 3 of the reference is concerned, the parties would be bound by the terms and conditions of the settlement, dated 11th September, 1969. The management shall introduce the gratuity scheme in accordance with the provisions of the Payment of Gratuity Act, 1972. The services of doctor incharge of E.S.I. Dispensary, Textile Mills, Gurgaon shall be made available to the workmen at all hours of the day and night and the management shall meet the necessary expenditure in this behalf. As far the abolition of contract system the workmen concerned have to seek their remedy under the Contract Labour (Regulation and Abolition) Act, 1970. The award is made accordingly. In the circumstances there shall be no order as to costs.

Dated, the 18th February, 1973.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 198, dated 23rd February, 1973

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated, the 18th February, 1973.

The 10th March, 1973

No. 2821-4Lab-73/9652.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947, (Act No. XIV of 1957), the Governor of Haryana is pleased to publish the following award of the Labour Officer-cum-Conciliation Officer, Ballabgarh Circle, Faridabad, in respect of the dispute between the workmen and the management of M/s Aggarwal Iron Foundry, G. T. Road, Samalkha.

BEFORE SHRI DHARMENDRA NATH, LABOUR OFFICER-CUM-CONCILIATION
OFFICER, BALLABGARH (SOLE ARBITRATOR) IN THE MATTER OF
INDUSTRIAL DISPUTE

between

THE WORKMAN AND THE MANAGEMENT OF M/S. AGGARWAL IRON FOUNDRY
G. T. ROAD, SAMALKHA

Appearances :—

(1) Shri Ram Dhari Aggarwal, for the Management.

(2) Shri Harish Baghi, for the workmen.

AWARD

An industrial dispute having come into existence between the workmen and the Management of M/s. Aggarwal Iron Foundry, G. T. Road, Samalkha, the parties agreed to refer the same to my arbitration and the Government then published the arbitration agreement,—vide their notification No. ID/KNL/Arb-6133-72/40842-47, dated the 23rd November, 1972. The specific matters in dispute which are mentioned in the said agreement are as under :—

1. Whether Shri Sita Ram, son of Shri Ram Nath who is under suspension should be taken back on work? If so, with what details?
2. Whether the workers were justified in striking the work from 19th September, 1972 to 22nd September, 1972?
3. If issue No. 2 decided in favour of the workmen, whether they are entitled to any wages for the strike period?
4. If issue No. 2 decided against the workers, whether they are liable to compensate the management for the loss of production in the strike period.

After having considered the submissions of the parties, having given a careful consideration to the material on record and the arguments advanced by the parties and having applied my mind to the same, my finding on the dispute is as below :—

1. That Shri Sita Ram, son of Shri Ram Nath is not entitled to work in the Factory. His services should be terminated forthwith without any compensation.
2. That the strike for the period from 19th September, 1972 to 22nd September, 1972 was unjustified. Accordingly, the workers are not entitled to any wages for the strike period.

The 22nd February, 1973.

DHARMENDRA NATH,
Labour Officer-cum-Conciliation Officer,
Ballabgarh Circle, Sector-7, Faridabad,
(Sole Arbitrator).